



# House of Representatives

General Assembly

**File No. 36**

*January Session, 2005*

Substitute House Bill No. 6729

*House of Representatives, March 16, 2005*

The Committee on Energy and Technology reported through REP. FONTANA of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING OUTSIDE LEGAL COUNSEL TO REPRESENT THE OFFICE OF CONSUMER COUNSEL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-6a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The Department of Public Utility Control [is] and the Office of  
4 Consumer Counsel are authorized to participate in proceedings before  
5 agencies of the federal government and the federal courts on matters  
6 affecting utility services rendered or to be rendered in this state.

7 (b) For any proceeding before the Federal Energy Regulatory  
8 Commission, the United States Department of Energy or the United  
9 States Nuclear Regulatory Commission or appeal thereof, the Attorney  
10 General, upon request of the department, may retain outside legal  
11 counsel in accordance with section 3-125 to participate in such  
12 proceedings on behalf of the department. All reasonable and proper

13 expenses of such outside legal counsel shall be borne by the public  
14 service companies, certified telecommunications providers, electric  
15 suppliers or gas registrants that are affected by the decisions of such  
16 proceedings and shall be paid at such times and in such manner as the  
17 department directs, provided such expenses shall be apportioned in  
18 proportion to the revenues of each affected entity as reported to the  
19 department for purposes of section 16-49 for the most recent period,  
20 and provided further such expenses shall not exceed two hundred fifty  
21 thousand dollars per proceeding, including any appeals thereof, in any  
22 calendar year unless the department finds good cause for exceeding  
23 the limit and the affected entities have an opportunity, after reasonable  
24 notice, to comment on the proposed overage. All such legal expenses  
25 shall be recognized by the department as proper business expenses of  
26 the affected entities for rate-making purposes, as provided in section  
27 16-19e, if applicable.

28 (c) For any proceeding before the Federal Energy Regulatory  
29 Commission, the United States Department of Energy or the United  
30 States Nuclear Regulatory Commission, the Securities and Exchange  
31 Commission, the Federal Trade Commission, the United States  
32 Department of Justice, the Federal Communications Commission or  
33 appeal thereof, the Attorney General, upon request of the Office of  
34 Consumer Counsel, may retain outside legal counsel in accordance  
35 with section 3-125 to participate in such proceedings on behalf of the  
36 office. All reasonable and proper expenses of such outside legal  
37 counsel shall be borne by the public service companies, certified  
38 telecommunications providers, electric suppliers or gas registrants that  
39 are affected by the decisions of such proceedings and shall be paid at  
40 such times and in such manner as the office directs, provided such  
41 expenses shall be apportioned in proportion to the revenues of each  
42 affected entity as reported to the department for purposes of section  
43 16-49 for the most recent period, and provided further such expenses  
44 shall not exceed two hundred fifty thousand dollars, including any  
45 appeals thereof, in any calendar year. The Department of Public Utility  
46 Control shall recognize all such legal expenses as proper business  
47 expenses of the affected entities for rate-making purposes, as provided

48 in section 16-19e, if applicable.

This act shall take effect as follows and shall amend the following sections:
---

Section 1	<i>October 1, 2005</i>	16-6a
-----------	------------------------	-------

***ET***      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Consumer Counsel	CC&PUCF - Cost	Up to 250,000	Up to 250,000
All	Various - Cost	Potential Minimal	Potential Minimal

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 06 \$	FY 07 \$
All Municipalities	Cost	Potential Minimal	Potential Minimal

### **Explanation**

The bill allows the Office of Consumer Counsel (OCC) to participate in proceedings before federal agencies and federal courts on certain matters. In proceedings before certain federal agencies, the bill allows the OCC to request that the Attorney General (AG) retain outside legal counsel to participate on its behalf. However, the bill limits such expenses to \$250,000 per calendar year. In addition, the bill requires such costs to be apportioned to entities which report to the Department of Public Utility Control for assessments. Under the bill, such costs must be recognized as business expenses for traditional ratemaking purposes. Therefore, utilities would be able to recover such legal expenses in rates. Since the legal expenses are limited to \$250,000 per calendar year, to the extent that such costs could be passed on to the state and municipalities as ratepayers, it would be minimal.

---

**OLR BILL ANALYSIS**

sHB 6729

**AN ACT CONCERNING OUTSIDE LEGAL COUNSEL TO REPRESENT THE OFFICE OF CONSUMER COUNSEL****SUMMARY:**

This bill allows the Office of Consumer Counsel (OCC), which represents the interests of utility ratepayers, to participate in proceedings before federal agencies and federal courts on matters affecting utility services rendered or to be rendered in the state. The Department of Public Utility Control (DPUC) can already participate in these proceedings.

The bill also allows the OCC to request that the attorney general, retain outside legal counsel to participate on its behalf in proceedings before relevant federal agencies and appeals of these proceedings. The agencies are: the Federal Energy Regulatory Commission, U.S. Department of Energy, U.S. Nuclear Regulatory Commission, Securities and Exchange Commission, Federal Trade Commission, United States Department of Justice, and Federal Communications Commission. By law, DPUC can request the retention of outside counsel in proceedings before the first three agencies.

All reasonable and proper expenses of the outside legal counsel must be borne by the utility companies or other entities under DPUC's jurisdiction affected by the decisions of the proceedings. The costs must be paid when and in the manner OCC directs, and must be apportioned in proportion to the revenue of each affected entity as reported to the department for purposes of its assessments for the most recent period. The costs, including the costs of representation in appeals (apparently for all proceedings) cannot exceed \$250,000 per year. The department must recognize the costs as proper business expenses under traditional utility ratemaking. (Some of the entities affected by this provision are subject to alternative forms of rate regulation; others are not subject to rate regulation by the department.) Similar provisions apply to the retention of outside legal counsel on the department's behalf.

EFFECTIVE DATE: October 1, 2005

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 15      Nay 0